IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

FIRST APPEAL NO.746 OF 1998.

Solapur Municipal Corporation : Appellants.

versus

Kumari Jijabai d/o Pandurang

Gaikwad & anr. : Respondents.

Mr.Nitin Jamdar for the appellants.

None for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 28th February 2005.

ORAL ORDER

1. Heard Mr.Jamdar for the appellant. Nobody is present for the respondents. They are served. The appellant is the municipal corporation i.e. Solapur Municipal corporation upon whom liability of paying Rs.75,000/- as compensation to the respondents has been fastened

by the Motor Accident Claims Tribunal, Solapur. Counsel for the appellant made only one submissions that, according to him, when the claimants had claimed Rs.50,000/- and had paid court fee on that amount, then the tribunal was not justified in awarding Rs.75,000/-. According to him, there was no prayer in the claim petition that the compensation as might be found just, proper and reasonable should be paid. Therefore, according to him, the tribunal has no jurisdiction to award the compensation more than the amount asked for.

2. I am not in agreement with the submissions made by the counsel for the appellant. The tribunal has noted that the claimants had showed their willingness to pay additional court fees if the tribunal found that the claimants were entitled to more than Rs.50,000/-. The counsel for the appellant contended that they have no objection for the award of Rs.50,000/- as prayed for and they have deposited the amount and they have no objection to pay the interest.

3. The victim was a girl. Her right leg was

crushed under the tyres and she suffered 30% permanent disability. From the evidence of the father of victim it is clear that the victim suffered in an accident on 9th May 1992. She was in hospital for more than two months. The injury sustained by her was bone crush injury. She has become crippled. However, the counsel for the appellant contended that the victim was about 5 to 6 years of age and the accident was occurred while she was crossing. But looking to the nature of accident and the age of the victim, they are not challenging the aspect of negligence. In view of this, the compensation of Rs.75,000/- awarded by the tribunal is required to be reduced. Hence the order :-

:ORDER:

The appeal is partly allowed.

The compensation awarded by the tribunal to the respondents/claimants is restricted to Rs.60,000/-.

No order as to costs.

[D.G.DESHPANDE]

28/02/2005 JUDGE.